

ORDINANCE 2015-21

AN ORDINANCE AMENDING ORDINANCE 2008-12 TO PROHIBIT SMOKING IN NEW PUBLIC BARS, RESTAURANTS, PRIVATE CLUBS, AND TOBACCO STORES

WHEREAS, the Town Council ("Council") of the Town of Whitestown, Indiana ("Whitestown" or "Town") previously adopted Ordinance No. 2008-12, An Ordinance Regulating Smoking in Public Places and Places of Employment, as amended from time to time ("Ordinance 2008-12"); and

WHEREAS, the Indiana General Assembly has further enacted IC § 7.1-5-12 to prohibit smoking in public places and places of employment; and

WHEREAS, IC § 7.1-5-12-13 permits a local government unit to adopt more restrictive regulations for smoking related activities; and

WHEREAS, Ordinance 2008-12 currently provides certain exceptions for public places with a minimum age for admission of twenty-one (21) years; and

WHEREAS, Ordinance 2008-12 currently provides an exception for certain private clubs as defined therein; and

WHEREAS, Ordinance 2008-12 also currently provides exceptions for retail tobacco stores and tobacco bars as defined therein; and

WHEREAS, the Town Council has determined that in order to promote the general health, safety, and welfare of the Whitestown community, it is in the best interest of Whitestown to now limit exposure to smoking in public places with minimum age requirements as well as private clubs, retail tobacco stores, and tobacco bars, in the same manner as other facilities; and

WHEREAS, the Town Council desires to phase in the prohibition on smoking in pre-existing restaurants, bars, or private clubs that currently permit smoking and legally operate under the prior version of Ordinance 2008-12.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Whitestown, Indiana, as follows:

1. Smoking shall be prohibited in any restaurant, bar, or private club, that is a public place.
2. Consistent with Section 1 of this Ordinance, Section 1.03(a)(7) of Ordinance 2008-12 is amended and restated as follows (new text shown in underline, deleted text shown in ~~strikethrough~~):

(7) Restaurants, bars, and/or private clubs; ~~with restaurants or attached to a restaurant unless the bar is an "enclosed area" as defined by Section 1.01 of this ordinance, and the~~

~~bar does not share the ventilation system with another portion of the building and, access to the bathroom facility from the restaurant does not require entering the bar area.~~

3. Section 1.06(a)(4) of Ordinance 2008-12, which provides in part an exception for “Private clubs as defined in Section 1.01,” is hereby deleted.

4. Section 1.06(a)(7) of Ordinance 2008-12, which provides an exception for “Any facility where the minimum age for admission is twenty-one (21) years,” is hereby deleted.

5. Smoking shall be prohibited in any retail tobacco store or tobacco bar.

6. Consistent with Section 5 of this Ordinance, Section 1.03(a) of Ordinance 2008-12 is amended to add the following additional public place in which smoking is prohibited:

(17) Retail tobacco stores or tobacco bars.

7. Sections 1.06(a)(3) and 1.06(a)(5) of Ordinance 2008-12, which provide in part exceptions for “Retail tobacco stores” and “Tobacco bars” as defined in Section 1.01, are hereby deleted.

8. This Ordinance shall be enforced as set forth in Ordinance 2008-12.

9. The amendments set forth herein shall supersede any inconsistent provision in Ordinance 2008-12. However, all other portions of Ordinance 2008-12 shall remain in full force and effect. The paragraphs, sentences, definitions, words, and phase-in of this Ordinance are separable, and this Ordinance is separable from Ordinance 2008-12. If a court of competent jurisdiction hereof declares any portion of this Ordinance unconstitutional, invalid, or unenforceable for any reason, such declaration shall not affect the remaining portions of this Ordinance or Ordinance 2008-12.

10. This Ordinance shall be effective immediately upon its adoption and any publication as may be required by law; provided, however, that Sections 1, 2, 3, and 4 of this Ordinance (i) do not apply to any restaurant, bar, or private club facility that is currently in operation and permitting smoking as outlined in Ordinance 2008-12 (“Current Facility”); and (ii) apply immediately to all other restaurant, bar, or private club facilities. If any Current Facility ceases operation for a period of ninety (90) days, ceases permitting smoking as originally authorized in Ordinance 2008-12 for a period of ninety (90) days, changes ownership or files for bankruptcy, or otherwise violates any provision of Ordinance 2008-12, then Sections 1, 2, 3, and 4 of this Ordinance will apply immediately upon such expiration of time, change of ownership, bankruptcy filing, or violation.

[Signature Page Follows]

Introduced on October 13, 2015, and adopted by the Town Council of the Town of Whitestown, Indiana, on _____, 2016.

THE TOWN COUNCIL OF THE TOWN
OF WHITESTOWN, INDIANA

YAY/NAY

Eric Miller

Susan Austin

Kevin Russell

Clinton Bohm

Jeffrey Wishek

ATTEST:

Amanda Andrews, Clerk-Treasurer
Town of Whitestown, Indiana

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